

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3049 of 1980

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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NK RATHORE & ORS.

Versus

OIL & NATURAL GAS COMMISSION

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Appearance:

MR GIRISH PATEL for Petitioners

MR RAJNI H MEHTA for Respondent No. 1

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 24/06/97

ORAL JUDGMENT

#. Having heard the learned counsel for the parties and perused the Special Civil Application, I am satisfied that the respondents are unable to give satisfactory explanation for treatment given to the holders of the post of Topman.

#. It is not in dispute between the parties that before

1.9.66, the pay scale for the post of Junior Draftsman, Junior Surveyor, and Map Assistant, hereinafter referred to as affected categories and that of Topman was Rs.150-240 and Rs.175-240 respectively. However, the Commission has constituted Pay Rationalization Committee in the year 1966 for the purpose of rationalizing the existing pay structure. This Committee, in the month of April 1966, recommended adjustment of existing pay structure by applying one of the principles, "equal jobs should carry equal pay" irrespective of the branch of work to which they may belong, thereby ensuring a balance in horizontal relativities and from November 1966, the posts of both, the affected categories and Topman were made equivalent and the pay scale of these posts was fixed at Rs.175-240. Then comes the revision of this pay scale with effect from 1.4.67, 1.4.72, 1.4.74 and 1.4.79, and the parties are not on issue that the revised pay scales of these two categories remained same. The promotion from the affected categories was provided to the pay scale of Rs.530-1060. From the category of Topman, promotion has been provided to the pay scale of Rs.535-960 which was later on revised to Rs.595-1140. It is not in dispute that further promotion from both these categories has been provided to Class II service in the pay scale of Rs.750-1500. The respondents' Counsel does not dispute that the minimum qualifications prescribed for recruitment to the post of Topman was only of middle class pass at the relevant time whereas for the post of affected categories the minimum qualifications prescribed was Matriculate with Trade Certificate from ITI. So the qualifications for recruitment on the post of affected categories was much higher than the qualifications prescribed for recruitment on the post of Topman. Grievances started when the new policy of promotion was made effective from 25th April 1980 and regulation has also been framed in this respect. The promotional post in the pay scale of 595-1140 which was available to the Topman has been made a non promotional category and from the aforesaid date in the said pay scale, recruitment was required to be made on the basis of direct recruitment and qualifications have been prescribed as SSC with Trade Certificate. As such, from 25th April 1980, the Topmen were en-block upgraded to the pay scale of Rs.530-1060 and this upgradation given to the Topmen was denied to the affected categories. As a result, the Topmen who have completed 12 years service as per new promotion policy, have been given promotion in Class II.

#. So the Topmen who were all the times, from 1966 to 1980 at par in the pay scale with the affected categories, at this turning point, appears to have been

really made Topmen. No satisfactory justification is forthcoming from the respondents for giving of double benefits to this class of persons only. The only justification given out is that the promotional posts were made of direct recruitment and as such all Topmen have been upgraded in the pay scale of 530-1060. So only on the ground that the promotion is not available to the pay scale of 530-1060, upgradation in the pay scale of 530-1060, the promotional post for this category has come just like a lottery. It is a justification only for the sake of justification. It is true that these are two different posts and they may have their own promotional avenues but this Court cannot be oblivious of the fact that the Rationalization Committee has considered these two categories, i.e. the category of Topman and the affected category to be equal for the purpose of pay scale and from 1.11.66, admittedly both have been placed in the same scale, which continued till 24th April 1980 and thereafter a deviation has been made and the Topmen who were at par with the affected categories were made really Topmen. So it cannot be said that the grievances made by the petitioners in this Sp.C.A. is wholly unjustified or baseless, but as argued by learned counsel for respondents, these are the matters pertaining the equation of the post and upgradation of the post and of promotional chances and rationalization of pay of different categories and as such, I consider it to be appropriate to send the matter back to the respondent-Commission to consider this matter afresh after hearing the petitioners. This writ petition shall be treated to be a representation and the petitioners may be given an opportunity of hearing and the matter should be decided within a period of six months from the date of receipt of certified copy of this order. Another reason for adopting this course is that the petitioner No.4 is a registered trade Union of Surveyors, Draftsmen and Overseers, and as such before approaching this Court in such matters, the Union should have raised an Industrial dispute. However, in case the grievances of the petitioners are not acceptable then it is expected of the respondents to pass a reasoned order and a copy of the same may be sent to those petitioners who appear before the respondent. However, in case ultimately the petitioners are not satisfied with the order of the respondent, the only course open to the petitioners including the petitioner Union who is one of the parties to this petition, is to raise the Industrial dispute.

#. The Special Civil Application as well as Rule stands disposed of in aforesaid terms with no order as to costs.

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